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April 5, 2023

Senate Committee on Rules  
Oregon State Capitol  
900 Court Street NE  
Salem, OR 97301

### RE: Vote "NO" on SB 1087 – Restaurants on High-Value Farmland

Dear: Chair Lieber, Vice-Chair Knopp and Members of the Committee

Friends of Marion County (FoMC) is an independent 501(c)(3) farmland protection organization founded in 1998. Our mission is to protect farm and forestland, parks, and open space.

There are so many reasons the committee should reject this proposal. I will list just a few here:

1. Restaurants on High-Value farmland in Lane County will encourage other counties to adopt similar proposals.
2. In yr2000 Marion County found that the Blueberry Café operated an illegal restaurant on farmland outside the City of Salem. This location attracted many persons to the restaurant which enjoyed a lower property tax rate and thus had an unfair advantage of nearby restaurants operating lawfully within the Salem city limits.
3. The Blueberry Café story appeared in the Salem Statesman Journal after the Marion County Health Department advised the owners that they could not operate the restaurant on their farmland because of poor sanitary conditions, including septic system failures. In August 2016 The Blueberry Café moved its operation to a food cart.<sup>1</sup>
4. Nowadays, 215.283(1)(o) requires food sales be subordinate to the income earned from farm operations at the property. SB 1087 provides no protections for these farm operations. There is no requirement that the income from the restaurant operation remain subordinate to the farm operation thereby permitting the restaurant operation to become the dominant focus, especially since the bill allows 25-parking spaces in a 5,000 sq. ft. building.

I hope this letter provides an important view of the proposal and why the Senate Committee on Rules should reject this measure.

Thank you for listening.

Roger Kaye, President  
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1. Salem's Blueberry Cafe returns as food cart, Statesman Journal, August 6, 2016

## NEWS

# Salem's Blueberry Cafe returns as food cart

**Caitlyn May** Statesman Journal

Published 2:51 p.m. PT Aug. 6, 2016

Ginger Murphy and husband Lee have a craving for nostalgia.

The couple is planning to reopen the infamous Blueberry Café at 2355 Sunnyview Road, 16 years after county officials shut the restaurant down due to land use regulations. The farm, now owned by Murphy, is still there and beginning Monday the café will return in the form of a food cart: The BB Café.

"It's going to be your basic American fare, your hamburgers, hot dogs, chicken and waffles. This used to be the old Waffle Works trailer so we're taking that menu and incorporating it," Murphy said.

The difference between the original café and Murphy's version, she said, is that hers is mobile.

"A mobile trailer can be put on any private property. It's a separate business, separate entity, it can be put on any personal property," Murphy said.

Original owner Floyd Iverson ran into land use issues in 2000 when the Blueberry Café was closed. Marion County originally granted Iverson permits to operate a restaurant on part of his five-acre blueberry farm, but the county later pulled the permission, citing restrictions to exclusive farm use property.

Iverson opened the original cafe in 1999, selling baked goods.

"I had folks come around and say, 'You really should make eggs.' So I did," Iverson said. He was given a year-long license by the county, he said, but after a year he was asked to close.

"They came and said we would be fined \$1,000 a day if we stayed open," Iverson said.

The county offered to allow Iverson to remain open if certain requirements were met, including closing portions of the cafe dining room and adhering to health and fire codes. Iverson cited the associated costs and opted to fight the county.

The issue quickly became a hot topic among property rights groups, land use activists and farmers in general. State legislators, including Sen. Ted Ferrioli, attended a public meeting at the farm to discuss Iverson's options. Land use group 1,000 Friends of Oregon weighed in as well.

The exclusive farm use refers to zoning laws that are part of an effort in Oregon to distinguish farm land. It prevents lower-taxed agricultural land from being used for commercial purposes. ORS 215.243 states exclusive farm use, "justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones."

Eventually, the courts sided with the county in 2001 and upheld the decision to close the Blueberry Cafe. The family opened a location on Market Street in Salem before closing permanently in 2002.

"We spent \$50,000 with the lawyers and went broke," Iverson said.

Iverson has since retired to Arizona.

Murphy seems to have cleared the hurdles that forced Iverson to close.

Marion County's planning department has approved Murphy to operate the food cart on Sunnyview Road as a fixed location. According to a notice of decision issued by the county, Murphy can sell prepared food from the cart if it does not exceed 25 percent of the total sales of the farm. The café can use picnic tables, but the food must be made to carry out. Local farm stand EZ Orchards Farm Market said it operates under the same land-use regulation. Only 25 percent of its sales are made from incidental sales.

"I can't really blame the county," Murphy said of the original café closure. "Those are the rules and I'd hate to have them come against us but I know that if they make an exception here, they'd have to make an exception for Willamette Valley Fruit and everyone would have restaurants on agricultural property."

The BB Café is tentatively set to open the week of August 8 after its water system is approved by the county.

During a soft opening on Friday, August 5 at the People's Church, Murphy said she was looking forward to opening.